

REMARKS

This amendment responds to the office action dated March 5, 2004.

The Examiner objected to claims 23 and 33 due to a typographical error and required correction. The required correction has been made.

The Examiner rejected claim 21 under 35 U.S.C. § 112, second paragraph as being indefinite due to the lack of an antecedent basis for the term “said display.” Claim 21 has been amended to eliminate the term “said display.” This amendment overcomes the Examiner’s rejection.

The Examiner rejected claims 21-40 under 35 U.S.C. § 103(a) as being obvious over Landsman, et al, U.S. Patent Application Pub. No. 2003/0004804 (hereinafter Landsman) in view of Porn Rodeo, source code www.pornrodeo.com. The Examiner concedes that Landsman fails to disclose a system that loads an advertisement into a second browser while the browser is in a background window. The Examiner, however, suggests that the Porn Rodeo reference teaches that a link to a web site may be loaded into a background window and that it would have been obvious to one of ordinary skill in the art to combine Landsman with the Porn Rodeo reference. The Examiner’s combination is not obvious nor suggested by these references.

Landsman discloses a system for displaying advertising material to a person browsing the Internet during an interstitial, i.e., the gap in time when a person browses from one web address to the next. *See e.g.*, Landsman at paragraphs 0016 and 0087. Landsman further discloses that an Internet browser, upon connection to a web address that includes the disclosed advertising system may download an Adcontroller file (Adcontroller) that controls the further downloading and playing of plural advertisements. *Id.* at paragraphs 0087 and 0089. Adcontroller “politely” downloads advertisements into the browser memory to form a queue. *Id.* at paragraphs 0104, 0139 and 0143. The term “politely” refers to the downloading of advertisements occurring only during periods of time when a viewed website has been completely loaded into the browser display so that the downloading of the advertisements is transparent to the user. *Id.* at paragraph 0107.

When the Adcontroller detects an interstitial, it checks to see whether the first advertisement in the queue in browser cache memory is fully loaded. If so, then the Adcontroller plays the advertisement as soon as the interstitial begins. *Id.* at 0109. During play of the advertisement, the next web page is downloaded into browser memory while further downloading of advertisements into the queue is paused. Once the advertisement is finished playing, and if the next web page is fully loaded into memory, that web page is displayed and further downloading of advertisements into the queue is continued. If the next web page is not yet loaded into browser memory, the next advertisement in the queue may be played.

To establish obviousness in view of a combination of references, the Examiner must show that (1) there is some suggestion or motivation to combine the references, either in the references themselves or the knowledge generally available to one of ordinary skill in the art; (2) there be some reasonable expectation of success; and (3) that the combination teach all claim limitations. MPEP § 2143. The suggestion or motivation for the combination may not come solely from the applicant's disclosure. *Id.* Moreover, the suggested combination may not render the prior art unsatisfactory for its intended purpose MPEP § 2143.01.

The system of Landsman is not amenable to a combination with the Porn Rodeo reference, i.e., there is neither a motive nor a suggestion for the system of Landsman to open a background window and load advertisements into that window while it remains in the background. Because Landsman requires advertisements to be displayed in an interstitial, and because a prepared advertisement is held in a queue until it is ready to be played, the only time at which an advertisement is loaded into a browser window is when it is to be immediately shown to the viewer, i.e. at the beginning of an interstitial. Prior to that point in time, there is no need to open a new window because there is nothing to load into it (a window cannot contain a queue of advertisements). *Thus, when a new window is opened to contain an advertisement from the queue, the time has already come for that window to be in the foreground.*

The applicant also notes that Landsman intends that the advertisements be displayed in the same browser that is already opened for Internet navigation, but describes an alternate embodiment where pop-up windows are used for certain

advertisements that require media players, for example. *See* Landsman at paragraphs 0142, 0156, and 0158-0159. Accordingly, the Internet browser of Landsman will not even know whether or not a new window is to be required for an advertisement until it is already time to play that advertisement in the foreground. At no point does Landsman suggest the desirability of loading advertisements into a background window, nor would Landsman suggest such a combination because it would defeat the purpose of the system of Landsman, namely, the immediate presentation of advertisements during an interstitial in the foreground window.

Moreover, the applicant notes that neither Landsman nor the Porn Rodeo reference disclose any mechanism for bringing a background to the foreground upon the occurrence of an interstitial. As already noted, Landsman's advertisement is already in the foreground at the beginning of the interstitial. Porn Rodeo leaves the window in the background and waits for a user to close the foreground window. Because Landsman requires that an advertisement be immediately displayed to a viewer upon the occurrence of an interstitial, and because Porn Rodeo does not provide any mechanism to force a background window over a foreground window, there can be no suggestion for the combination in the prior art.

For these reasons, the cited combination of Landsman and Porn Rodeo is not proper. Landsman requires that an advertisement be viewable the instant it is brought from the queue in cache memory, hence loading the advertisement initially into a background window would be senseless. Moreover, because neither Landsman nor Porn Rodeo disclose that a background window may be forced over a foreground window, the suggested combination would render Landsman unsuitable for its intended purpose because the advertisement could not be seen during the intended time period, i.e. the interstitial, but instead could only be seen after the viewer closes the foreground window. *See* MPEP 2143.01.

Claims 22-30 and 32-40 depend from their respective independent claims and are allowable for the same reasons asserted to the respective independent claims.


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In view of the foregoing amendment and remarks, reconsideration and allowance of claims 21-40 is respectfully requested.

Respectively submitted,



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